
BOARD OF TRUSTEES OF THE INDIANA STATE TEACHERS' RETIREMENT FUND

Resolution No. 2009-12-01

Adopting rules related to the administration of the Fund as described herein.

WHEREAS, the Indiana State Teachers' Retirement Fund exists to provide retirement benefits to its members, their survivors, and beneficiaries;

WHEREAS, the Board of Trustees of the Indiana State Teachers' Retirement Fund, by statute, administers the Fund;

WHEREAS, the Board of Trustees, pursuant to [IC 5-10.4-3-8](#), may establish and amend rules and regulations for the administration of the Fund without adopting a rule under Indiana Code 4-22-2; and

WHEREAS, the Board of Trustees of the Indiana State Teachers' Retirement Fund wishes to adopt, readopt, amend, and/or repeal certain rules contained or to be contained in the Indiana Administrative Code related to the administration of the Fund as described herein;

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Indiana State Teachers' Retirement Fund that:

SECTION 1. [550 IAC 2-1-1.2](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-1-1.2](#) "Annuity savings account" or "ASA" defined

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-2-3](#)

Sec. 1.2. "Annuity savings account" or "ASA" means an individual account consisting of member contributions and the interest credits on those contributions in the guaranteed fund or the gain or loss in market value on those contributions in the alternate investment program. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-1-1.2](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#)*)

SECTION 2. [550 IAC 2-1-5](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-1-5](#) "In service", "active service", or "serve" defined

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-3-1](#); [IC 5-10.2-3-7.5](#); [IC 5-10.4-4-2](#)

Sec. 5. (a) "In service" or "active service" refers to active teaching or employment in any of the positions covered in [IC 5-10.4-4-1](#), or approved leave from active service **where a member is entitled to service credit** while still under contract, employed, or while receiving state disability benefits.

(b) For purposes of the determination of service credit under [IC 5-10.4-4-2](#), "in service", "active service", or "serve" means physically performing covered employment duties in any one (1) day or fraction thereof. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-1-5](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 703; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#)*)

SECTION 3. [550 IAC 2-1-5.4](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-1-5.4](#) "Interest credits" defined

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-3-6](#)

Sec. 5.4. "Interest credits" means the amount of money that is attributed to amounts invested in the guaranteed program pursuant to the interest credit rate set by the board. For purposes of [IC 5-10.2-3-6](#), the term also includes earnings in the alternative investment programs. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-1-5.4](#); adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#)*)

SECTION 4. [550 IAC 2-1-6](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-1-6](#) "License" defined

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-3-1](#); [IC 5-10.4-4-1](#)

Sec. 6. "License" means a teaching license issued by the Indiana state board of education **or the Indiana professional licensing agency**. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-1-6](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 703; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Nov 19, 2008: [20081126-IR-550080887ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#)*)

SECTION 5. [550 IAC 2-1-8.5](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-1-8.5](#) "Record keeper" defined

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-4](#)

Sec. 8.5. "Record keeper" means a third party service provider that provides bookkeeping services for TRF members' individual ASA investment trading transactions and individual accounts, including daily valuations of accounts. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-1-8.5](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#)*)

SECTION 6. [550 IAC 2-1-12.8](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-1-12.8](#) "Sick leave" defined

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.4-4-7](#)

Sec. 12.8. For purposes of [IC 5-10.4-4-7](#), "sick leave" means a leave of absence taken by the member due to the member's illness or injury or other condition for which the member has a right to accrue, be paid, or take leave pursuant to the sick leave policy of the member's employer or as part of the member's teacher contract. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-1-12.8](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#)*)

SECTION 7. [550 IAC 2-1-13](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-1-13](#) "Teacher" defined

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-4-3](#); [IC 5-10.4-4-1](#)

Sec. 13. "Teacher" refers to teachers, principals, superintendents, those enumerated in [IC 5-10.4-4-1](#) as members of the Fund, or supervisory personnel who are licensed by the Indiana state board of education **or the Indiana professional licensing agency** and regularly employed by covered employers. The term does not include:

- (1) dormitory staff;
- (2) grounds or facility management personnel;
- (3) secretarial staff;
- (4) occupational therapists;
- (5) physical therapists;
- (6) counselors; or
- (7) other similar positions;

whereby the employee is not licensed by the state board of education **or the Indiana professional licensing agency** as a teacher. The board shall have the final determination on whether a position is within the meaning of the term. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-1-13](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 704; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#)*)

SECTION 8. [550 IAC 2-1-14](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-1-14](#) "Uniform contract" defined

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.4-4-1](#)

Sec. 14. "Uniform contract" refers to a teaching contract for a single year in a position which has been officially approved and certified by the Indiana state board of education **or the Indiana professional licensing agency.** (*Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-1-14](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 704; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Nov 19, 2008: [20081126-IR-550080887ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#)*)

SECTION 9. [550 IAC 2-2-2.2](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-2-2.2](#) Direct deposit

Authority: [IC 5-10.2-2-1](#); [IC 5-10.4-3-8](#)

Affected: [IC 5-10.2-4-1.2](#)

Sec. 2.2. (a) It is the policy of TRF that direct deposit is the preferred method for monthly benefit distributions to members and beneficiaries. Except as provided below, monthly benefit distributions shall be made by direct deposit.

(b) A member or beneficiary who does not wish to have direct deposit may request a waiver of the requirement on a form approved by TRF.

(c) The reason for requesting the waiver must be designated on the form. TRF shall grant a member or beneficiary's waiver for any of the reasons enumerated in [IC 5-10.2-4-1.2\(c\)](#).

(d) TRF may grant a waiver when it is determined that the facts of a particular case warrant the waiver of the requirement of direct deposit.

(e) A member or beneficiary who is in pay status as of July 1, 2009, and is receiving monthly benefits in a manner other than direct deposit shall not have the monthly benefit stopped for receiving monthly benefits in a manner other than direct deposit. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-2-2.2](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#)*)

SECTION 10. [550 IAC 2-2-2.5](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-2-2.5](#) Administrative review and appeals of staff action

Authority: [IC 5-10.4-3-6](#); [IC 5-10.4-3-8](#)

Affected: [IC 4-21.5-3-5](#); [IC 4-21.5-3-28](#); [IC 5-10.4-2-1](#)

Sec. 2.5. (a) The purpose of this rule is to establish procedures to process petitioner appeals of TRF staff action, determinations, or decisions hereinafter referred to as "staff action" in accordance with and pursuant to the Indiana Orders and Procedures Act (Act), [IC 4-21.5-3](#).

(b) Pursuant to [IC 4-21.5-3-28](#), the executive director (ED) as the board's delegate [*sic*] shall conduct a final authority proceeding to issue a final order.

(c) The administrative review process will be as follows:

(1) When responding to a member's requests for an appeal of staff action, the following procedure shall be used. The staff action shall be reviewed by a supervisor of the TRF personnel who took the questioned action, and the supervisor shall investigate whether such action was correct and whether a suitable alternative solution is available.

(2) If the staff action is determined to be correct, and if no suitable alternative solution is available, the appeal shall be forwarded to the TRF general counsel for review and response. TRF shall prepare a response and attach a summary of the member's right to administrative review and forward it to the stakeholder by certified U.S. mail. This response shall be TRF's initial determination.

(3) Pursuant to [IC 4-21.5-3-5](#), the petitioner will have fifteen (15) days from receipt of TRF's initial determination to appeal in writing.

(4) A copy of the appeal shall be sent to the administrative law judge (ALJ).

(5) The ALJ may set a prehearing conference to discuss issues of discovery and motions for summary judgment and to determine a briefing schedule.

(6) If an evidentiary hearing is required, TRF shall provide space to conduct the hearing and engage a court reporter to make a record of the hearing.

(7) Once the ALJ has entered a disposition of the case, the ED will affirm, modify, or dissolve the ALJ's order. The ED may remand the matter, with or without instructions, to the ALJ for further proceedings.

(8) A party not in default under the Act must file with the ED an objection which identifies the basis of the objection with reasonable particularity within fifteen (15) days after the order is served on the member in order to preserve an objection for judicial review.

(9) Even without an objection under subdivision (8), the ED may serve written notice of its intent to review any issue related to the order and such notice shall be served on all parties. The notice must identify the issues that the ED intends to review.

(10) In the absence of an objection or notice under subdivision (8) or (9), the ED shall affirm the ALJ's order.

(11) The petitioner shall be notified by certified U.S. mail of the final order.

(12) The petitioner has thirty (30) days from receipt of the final order to petition a court of jurisdiction for judicial review.

(13) If no petition for judicial review is filed within the thirty (30) day time period, the file is closed.

(14) This rule shall be interpreted to conform to the Act and shall be implemented pursuant to and in accordance with the Act.

(Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 2-2-2.5; adopted Dec 16, 2009: 20100106-IR-550090990ONA)

SECTION 11. [550 IAC 2-2-3](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-2-3](#) Benefit payments pending appeal

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-4](#); [IC 5-10.4-5-9](#); [IC 34-13-1-6](#)

Sec. 3. (a) A member who elects to exercise the right to appeal an adverse decision issued by the board TRF may receive benefit payments less the disputed amount while the matter is pending. Should the matter be resolved in the member's favor, future benefits will be adjusted accordingly and a lump-sum payment for past benefits due shall be issued within sixty (60) days. If, however, the necessary information has not been provided or was delayed, the sixty (60) day period will be extended accordingly.

(b) Whenever, by final decree or judgment, a sum of money is adjudged to be due to a person, the judgment shall draw an annual rate of interest as described in [IC 34-13-1-6](#). The fund shall not pay prejudgment interest.

(Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 2-2-3; filed Oct 5, 1992, 5:00 p.m.: 16 IR 704; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007:

20070404-IR-550070200ONA; adopted Dec 16, 2009: 20100106-IR-550090990ONA)

SECTION 12. [550 IAC 2-2-6.1](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-2-6.1](#) ASA valuation

Authority: [IC 5-10.2-2-1](#); [IC 5-10.2-2-3](#); [IC 5-10.4-3-6](#); [IC 5-10.4-3-8](#)

Affected: [IC 5-10.2-2-3](#)

Sec. 6.1. (a) A member may direct an allocation in the amount credited to the member among the guaranteed program and any available alternative accounts subject to the following conditions:

(1) TRF shall allow a member to make a change or selection at least once a quarter.

(2) TRF shall implement the member's selection beginning the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by TRF. This date is the effective date of the member's selection.

(3) A member may select any combination of the guaranteed program or any of the available alternative accounts in ten percent (10%) increments.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, TRF shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

(A) for an alternative investment program balance, the market value on the effective date; and

(B) for any guaranteed program balance, the account balance on the effective date.

(b) Notwithstanding subsection (a), once TRF engages the services of a record keeper, and said record keeper is authorized to perform daily valuation services and other such services as required and necessary to effectuate this subsection, a member may direct an allocation in the amount credited to the

member among the guaranteed program and any available alternative accounts subject to the following conditions:

- (1) TRF shall allow a member to make a change or selection at least once a day.
- (2) TRF shall implement the member's selection beginning the next calendar day after the selection is received by TRF's record keeper. This date is the effective date of the member's selection.
- (3) A member may select any combination of the guaranteed program or any of the available alternative accounts in one percent (1%) increments.
- (4) A member's selection remains in effect until a new selection is made.
- (5) On the effective date of a member's selection, TRF's record keeper shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:
 - (A) for an alternative investment program balance, the market value on the effective date; and
 - (B) for any guaranteed program balance, the account balance on the effective date.

(c) When a member who participates in the alternative or guaranteed investment programs transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection. When a member who participates in an alternative investment program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the day before the member applies for distribution or annuitization at retirement, disability, date of death, or suspension and withdrawal, plus contributions received after that date. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 2-2-6.1; adopted Dec 16, 2009: 20100106-IR-550090990ONA*)

SECTION 13. [550 IAC 2-2-7](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-2-7](#) Definition of compensation

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-4-3](#); [IC 5-10.4-5-6](#)

Sec. 7. (a) **Subject to subsection (b)**, "basic salary" or "annual compensation" means ~~the monetary all compensation agreed to in advance in writing that is earned by and paid to a teacher for services rendered under a uniform or supplemental contract~~ **included as gross income as reported on the member's W-2 for covered service by a covered employer**, plus the amounts stated in [IC 5-10.2-4-3](#) ~~that~~ are not paid directly to the member.

(b) Annual compensation does not include any of the following:

- (1) ~~These amounts excluded under [IC 5-10.2-4-3](#).~~
- (2) ~~A one (1) time payment, or lump sum payment, by the employer that is not made for services actually rendered or based upon the member's standard rate of pay.~~
- (3) ~~Back pay awards or settlements arising out of an employment grievance proceeding, except that back pay may be allocated among the years in which the service was rendered.~~
- (4) ~~Payments by the employer for accrued but unused compensatory time for overtime worked.~~
- (5) ~~Meals, lodging, life insurance, or other fringe benefits provided by the employer unless they fall within [IC 5-10.2-4-3\(d\)](#).~~
- (6) ~~Payments by the employer for accrued but unused holiday, sick, and personal time, even when paid as part of a bargained agreement on a yearly or terminal basis.~~
- (7) ~~Payments for dues for professional or other organizations.~~
- (8) ~~Payments made as bonuses or awards for attendance, incentives, or performance unless such payments are available to all covered members employed by the employing unit.~~
- (9) ~~Payments in lieu of insurance coverage to members who do not participate in employer provided health insurance plans or other fringe benefits provided by the employer, except payments made pursuant to a bona fide Section 125 cafeteria plan, as defined in Section 125 of the Internal Revenue Code.~~
- (10) ~~Reimbursements for expenditures made by the member.~~
- (11) ~~Payments by the employer for accrued but unused vacation time, even when paid as part of a bargained agreement on a yearly or terminal basis, except for annual amounts paid to a member:~~
 - (A) ~~employed in a state institution with an instructional calendar of less than one hundred ninety five (195) days;~~
 - (B) ~~pursuant to the state department of personnel's teacher salary policy; and~~
 - (C) ~~who retired after May 1, 2001.~~

~~The items listed in this subsection do not constitute an exhaustive list.~~

(b) Compensation of not more than two thousand dollars (\$2,000) pursuant to and in accordance with [IC 5-10.2-4-3\(e\)](#) may be used in the total annual compensation from which the average of the annual compensation is determined.

(c) A member's basic salary or annual compensation must be certified by an official of the employing unit who has knowledge of and access to the records. A member may not certify his or her basic salary or annual compensation. (*Board of Trustees of the Indiana State Teachers' Retirement Fund*; [550 IAC 2-2-7](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 705; filed Jul 26, 2000, 2:48 p.m.: 23 IR 3089; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; filed Apr 8, 2004, 3:23 p.m.: 27 IR 2496; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Nov 19, 2008: [20081126-IR-550080887ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))

SECTION 14. [550 IAC 2-3-2](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-3-2](#) Membership following the withdrawal of contributions

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-3-6.5](#); [IC 5-10.4-4-13](#)

Sec. 2. (a) Except as provided under [IC 5-10.2-3-6.5](#), a member is not entitled to receive benefits after membership is suspended and the amount held in the annuity savings account withdrawn unless the member returns to covered employment in Indiana and remains employed for at least ~~one (1)~~ **one-half (1/2)** year.

(b) Should the fund become aware that a member has reemployed in a covered position within thirty (30) days after having requested the withdrawal and if no withdrawal distribution has been made, the fund will not make the withdrawal distribution. The member shall notify the fund immediately upon accepting such employment. (*Board of Trustees of the Indiana State Teachers' Retirement Fund*; [550 IAC 2-3-2](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 706; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))

SECTION 15. [550 IAC 2-3-3](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-3-3](#) Reinstatement of creditable service after suspension of membership

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-3-5](#); [IC 5-10.2-3-6](#); [IC 5-10.4-4-13](#)

Sec. 3. A member who returns to active service after suspension of membership shall receive credit for prior service when the member is reemployed in a covered position for at least ~~one (1)~~ **one-half (1/2)** year. (*Board of Trustees of the Indiana State Teachers' Retirement Fund*; [550 IAC 2-3-3](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 706; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))

SECTION 16. [550 IAC 2-3-5](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-3-5](#) Automatic distribution of ASA assets

Authority: [IC 5-10.4-3-6](#); [IC 5-10.4-3-8](#)

Affected: [IC 5-10.2-3-5](#); [IC 5-10.2-3-6](#)

Sec. 5. (a) Whenever a member is suspended pursuant to [IC 5-10.2-3-5\(c\)](#), the fund shall conduct an investigation to locate the member.

(b) Reasonable costs of locating the member may be charged against the member's ASA.

(c) Pursuant to [IC 5-10.2-3-6\(d\)](#), whenever a valid address can be determined for the member, the fund shall automatically make a lump-sum distribution to the member from the member's ASA not to exceed one thousand dollars (\$1,000).

(d) Contemporaneously with the distribution, the fund shall serve notice to the member explaining the reason for the distribution.

(e) Pursuant to [IC 5-10.2-3-6\(b\)](#), if the member is not located and does not claim his monies within five (5) years after suspension, the monies shall be credited to the fund and the fund shall retain the monies

until the member or the member's beneficiary claims them with no further interest credits or earnings after the monies are credited to the fund. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 2-3-5; adopted Dec 16, 2009: 20100106-IR-550090990ONA*)

SECTION 17. [550 IAC 2-3-6](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-3-6](#) Unclaimed ASA assets within dormant accounts

Authority: [IC 5-10.2-2-1](#); [IC 5-10.4-3-6](#); [IC 5-10.4-3-8](#)

Affected: [IC 5-10.2-2-3](#); [IC 5-10.2-2-4](#)

Sec. 6. (a) Whenever a vested member's account has received no contributions for a period of twenty (20) years and it has been determined by TRF that the member is otherwise age and service eligible to receive a benefit, the fund may conduct an investigation to locate the member.

(b) Reasonable costs of locating the member or the member's beneficiary may be charged against the member's ASA.

(c) If the member or the member's beneficiary is not located after an investigation to locate the member, the monies in the member's ASA shall be credited to the fund and the fund shall retain the monies until the member or the member's beneficiary claims the monies with no further interest credits or earnings after the monies are credited to the fund. (*Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 2-3-6; adopted Dec 16, 2009: 20100106-IR-550090990ONA*)

SECTION 18. [550 IAC 2-4-1](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-4-1](#) Membership in the fund

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-3-2](#); [IC 5-10.4-4-1](#); [IC 5-10.4-4-11](#); [IC 20-24-1-4](#)

Sec. 1. (a) Membership in the fund shall be compulsory for all teachers licensed by the Indiana state board of education or its successor who are regularly employed pursuant to a uniform or supplemental teaching contract to perform educational or administrative services in the public schools of the state of Indiana. Licensed substitute teachers who have at least an associate's degree and who have taught at least one hundred twenty (120) days in any one (1) school year or at least sixty (60) days in any two (2) school years are also required to become members of the fund. Required contributions must be paid to the fund for each covered teacher.

(b) Membership in the fund is compulsory for employees of the fund, and all licensed teachers regularly employed in state educational institutions supported solely by the state who devote their entire time to teaching or in state benevolent, charitable, or correctional institutions. Required contributions must be paid to the fund.

(c) Membership is optional for regularly contracted faculty and professional staff at Ball State University, Indiana State University, University of Southern Indiana, and Vincennes University who are designated as eligible by the board. The universities shall petition the board before new teachers are given the opportunity to join the fund. Required Both employer and employee contributions must be paid to the fund.

(d) Membership in the fund is optional for employees and officials of a governing body and the Indiana state board of education who were licensed as teachers by the Indiana state board of education or the Indiana professional licensing agency prior to their election or appointment. Required contributions must be made to the fund.

(e) Membership in the fund is optional for teachers employed by charter schools as defined by [IC 20-24-1-4](#). (*Board of Trustees of the Indiana State Teachers' Retirement Fund; 550 IAC 2-4-1; filed Oct 5, 1992, 5:00 p.m.: 16 IR 706; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: 20070404-IR-550070200ONA; adopted Nov 19, 2008: 20081126-IR-550080887ONA; adopted Dec 16, 2009: 20100106-IR-550090990ONA*)

SECTION 19. [550 IAC 2-5-1](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-5-1](#) One day of service credit

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.4-4-2](#); [IC 5-10.4-4-7](#)

Sec. 1. (a) For purposes of [IC 5-10.4-4-2](#), a member is entitled to one (1) day of service credit when the member engages in covered service for a standard work day or any fraction thereof.

(b) Creditable service does not include sick leave, vacation leave, or personal leave unless service credit for such leave is granted pursuant to [IC 5-10.4-4-7](#). *(Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-5-1](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 707; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Nov 19, 2008: [20081126-IR-550080887ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))*

SECTION 20. [550 IAC 2-5-5](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-5-5](#) Credit for military service

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.4-4-8](#)

Sec. 5. (a) For purposes of [IC 5-10.4-4-8](#), there is no time frame within which a member who returned to an approved four (4) year teacher training program within the time specified by law must complete the program.

(b) An approved teacher training program is defined as any training for which educational credits are accepted and used to meet the requirements of the department of education to be regularly employed and legally qualified as a teacher.

~~(b)~~ (c) A member seeking military service credit must provide documentary evidence demonstrating that the statutory requirements have been satisfied.

~~(e)~~ (d) Qualifying military service credit will be added to a member's account in full years or any fraction thereof. A member may not receive more than one (1) year of service credit for one (1) year of military service. *(Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-5-5](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 708; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))*

SECTION 21. [550 IAC 2-5-7](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-5-7](#) Leave of absence due to sickness or disability

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.4-4-7](#); [IC 20-28](#)

Sec. 7. (a) If the member is compensated while on sickness or disability leave, the statutory contributions must be maintained.

(b) Except as provided by subsection (c), a member seeking credit for leave of absence due to sickness or disability must apply for such credit in a manner approved by TRF that contains written verification by an official of the member's employer that during the time that the leave was taken the leave was approved and taken pursuant to the sick leave policies and procedures of the employer.

~~(b)~~ (c) A member seeking credit for leave of absence due to sickness or disability **who cannot obtain an employer verification described in subsection (b) due to a lack of employer records** must provide documentary evidence demonstrating that the statutory requirements have been satisfied. *(Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-5-7](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 708; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Nov 19, 2008: [20081126-IR-550080887ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))*

SECTION 22. [550 IAC 2-5-13](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-5-13](#) Purchase of service credit; direct rollover or financial agreement

Authority: [IC 5-10.4-3-6](#); [IC 5-10.4-3-8](#)

Affected: [IC 5-10.2-3-1.2](#); [IC 5-10.4-4](#)

Sec. 13. (a) Eligible TRF members may purchase service under [IC 5-10.2-3-1.2](#), [IC 5-10.4-4-4](#), [IC 5-10.4-4-5](#), [IC 5-10.4-4-6](#), and [IC 5-10.4-4-8](#).

(b) The eligible fund member may purchase such service subject to the following:

- (1) Service may be purchased in one (1) month increments. The minimum service purchase is one (1) year for a member who elects to purchase service through a finance agreement.
- (2) Installment payments are subject to the terms of the finance agreement.
- (3) Any service purchase may be made via a direct cash payment, a direct rollover under [IC 5-10.4-4-12](#), or a combination of both.
- (4) Any direct rollover may not exceed the actual cost of such service as established by the fund.
- (5) Payment may be made in a lump sum or in annual installments for a period not to exceed five (5) years. Any installment shall bear interest at the actuarial interest rate effective on the date of the first installment. Any payments are subject to applicable Internal Revenue Service limits, and the fund may limit any payments in a manner necessary to comply with these limits.

(c) In the event of a payment default under the terms of the finance agreement, a partial service credit amount will be determined by TRF. The partial service credit amount will be based on the payments made as of the date of payment default and the actuarial cost of the service. The minimum amount of partial service credit will be one (1) month. Partial service will be credited in monthly increments. The member has a thirty (30) day grace period from the date of the payment default to restore the missed payment. The member is not eligible to make service purchase payments more than thirty (30) days after the date of the payment default.

(d) The interest rate will be set at the prime rate reported in the most recent edition of the Wall Street Journal at the time the financial agreement is executed, plus two (2) percentage points. *(Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-5-13](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))*

SECTION 23. [550 IAC 2-6-3.5](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-6-3.5](#) Death in service; compliance with the Heroes Earning Assistance and Relief Tax Act of 2008 (HEART)

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-2-1](#); [IC 5-10.2-1.5](#)

Sec. 3.5. (a) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United State *[sic]* Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a member in the retirement system are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(b) Effective with respect to deaths or disabilities occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United State *[sic]* Code), to the extent permitted by Section 414(u)(8) of the Internal Revenue Code, for benefit accrual purposes, the member will be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(c) Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(2) of the Internal Revenue Code, an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in Chapter 43 of Title 38, United State *[sic]* Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. *(Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-6-3.5](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))*

SECTION 24. [550 IAC 2-7-4.5](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-7-4.5](#) Annuity savings account contributions received by TRF subsequent to processing of retirement benefit

Authority: [IC 5-10.2-2-1](#); [IC 5-10.2-2-1.5](#); [IC 5-10.4-3-8](#)

Affected: [IC 5-10.2-4-2](#)

Sec. 4.5. (a) Notwithstanding a member's election to receive an annuity provided by the amounts credited to the member's annuity savings account at retirement, annuity savings account contributions posted to a member's account subsequent to the final date on which the member's benefit is processed may be distributed to the member in a lump-sum payment.

(b) A member electing to annuitize his annuity savings account in contemplation of retirement will have the entire amount in his annuity savings account moved into a fixed value account, set at the same rate as the guaranteed fund. Once the annuity savings account is moved into a fixed value account in contemplation of retirement, the election cannot be changed. *(Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-7-4.5](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))*

SECTION 25. [550 IAC 2-7-5.5](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-7-5.5](#) Required minimum distribution procedure

Authority: [IC 5-10.2-2-1](#); [IC 5-10.2-2-1.5](#); [IC 5-10.4-3-9](#)

Affected: [IC 5-10.2-4-2](#); [IC 5-10.2-4-7](#)

Sec. 5.5. (a) Distribution of each member's entire interest must begin by April 1 of the calendar year following the later of:

- (1)** the calendar year in which the member attains age seventy and one-half (70 1/2); or
- (2)** the calendar year in which the member retires (the required beginning date).

(b) If a nonvested member or a retired member who deferred withdrawal of his or her ASA reaches the required beginning date without taking an ASA distribution, they will be subject to a mandatory lump-sum distribution of their account less any monies owed for taxes and/or penalties.

(c) If a vested member has not started receiving his or her monthly pension benefit by the required beginning date, the member's account will be automatically processed utilizing the five (5) year guarantee as described in [IC 5-10.2-4-7](#)(b) and annuitizing any available ASA monies.

(d) TRF will attempt to notify members of a potential required minimum distribution prior to the member's required beginning date if TRF is able to locate a current valid address for the member utilizing an existing locator service. If TRF is unable to locate a current valid address for a member who has not taken a distribution from their pension and/or ASA by the required beginning date, no such distribution shall be made until the member is located. Once a valid address is located, distributions will proceed as set forth in subsections (b) and (c), less any withholdings or penalties owed. *(Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-7-5.5](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))*

SECTION 26. [550 IAC 2-7-5.7](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-7-5.7](#) Compliance with Code Section 401(a)(9) for required minimum distributions

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-2-1.5](#)

Sec. 5.7. The retirement system will pay all benefits in accordance with a good faith interpretation of the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations in effect under that section, as applicable to a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code. The retirement system is subject to the following provisions:

- (1)** Distribution of a member's benefit must begin by the required beginning date, which is the later of the April 1 following the calendar year in which the member attains age seventy and one-half (70 1/2) or April 1 of the year following the calendar year in which the member terminates.
- (2)** The member's entire interest must be distributed over the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary.
- (3)** If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death.
- (4)** If a member dies before required distribution of the member's benefits has begun, the member's entire interest must be either:

(A) distributed (in accordance with federal regulations) over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year following the calendar year of the member's death; or

(B) distributed within five (5) years of the member's death.

(5) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Section 401(a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q & A-2.

(6) The death and disability benefits provided by the retirement system are limited by the incidental benefit rule set forth in Section 401(a)(9)(G) of the Internal Revenue Code and Treasury Regulation Section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed twenty-five percent (25%) of the cost for all of the members' benefits received from the retirement system.

(7) Notwithstanding the other provisions of this rule or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies Section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section.

(Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-7-5.7](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))

SECTION 27. [550 IAC 2-7-8](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-7-8](#) Employer payments

Authority: [IC 5-10.2-2-1](#); [IC 5-10.4-3-8](#)

Affected: [IC 5-10.2-4-2](#); [IC 5-10.4-7-8](#)

Sec. 8. (a) As allowed in [IC 4-10.4-7-7](#) [sic], the TRF board of trustees herein sets the due date for contributions as seven (7) days after a covered employer's payroll.

(b) Any payments not made on the due date automatically accrue interest at a rate equal to the prime rate reported in the Wall Street Journal on the first date of payment default, plus two (2) percentage points.

(c) Any employer who fails to submit required contributions and reports within thirty (30) days of the due date will be subject to a penalty as set forth in [IC 5-10.4-7-8](#). If the thirtieth day following the due date falls on a Saturday, Sunday, or a legal holiday, the due date becomes the next working day. It shall be the responsibility of the local official to employ such method of delivery to insure that the report and payment will reach TRF at 150 West Market Street, Suite 150, Indianapolis, Indiana 46204, on or before the due date. *(Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-7-8](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))*

SECTION 28. [550 IAC 2-7-9](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-7-9](#) Overpayments and underpayments

Authority: [IC 5-10.2-2-1](#); [IC 5-10.4-3-8](#)

Affected: [IC 5-10.2-2-11](#); [IC 5-10.2-3-2](#)

Sec. 9. (a) When there has been an overpayment of picked up member contributions, the principle [sic] amount of the overpayment will be credited to the employer. The principle [sic] amount of the overpayment will not be adjusted for earnings or interest.

(b) When there has been an overpayment of after-tax member contributions, the principle [sic] amount of the overpayment will be credited to the employer. The principle [sic] amount of the overpayment will not be adjusted for earnings or interest.

(c) When there has been an underpayment of picked up member contributions and after-tax member contributions, the principle [sic] amount of the underpayment will be billed to the employer. The principle [sic] amount of the underpayment will be adjusted by an assumed earnings or interest rate of three percent (3%).

(d) When there has been an overpayment of employer contributions, the principle [sic] amount of the overpayment will be credited to the employer. The principle [sic] amount of the overpayment will not be

adjusted for earnings or interest.

(e) When there has been an underpayment of the employer contribution, the principle [sic] amount of the underpayment will be billed to the employer. The principle [sic] amount will be adjusted by an assumed earnings or interest rate of three percent (3%). (Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-7-9](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))

SECTION 29. [550 IAC 2-8-4](#) IS ADDED TO READ AS FOLLOWS:

[550 IAC 2-8-4](#) Reemployment supplemental benefit process

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-4-10](#)

Sec. 4. (a) A TRF retired member who reemploys or maintains reemployment in a TRF covered position shall not accrue additional TRF service credit or supplemental retirement benefits after July 1, 2007.

(b) A TRF reemployed retiree who applies for supplemental retirement benefits after June 30, 2007, is entitled to supplemental retirement benefits accrued prior to July 1, 2007, as described in [IC 5-10.2-4-10](#) as such law was in effect as of June 30, 2007. (Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-8-4](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))

SECTION 30. [550 IAC 2-9-6.4](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 2-9-6.4](#) Confidentiality of fund records

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-2-17](#)

Sec. 6.4. Pursuant to [IC 5-10.2-2-17](#), fund records of individual members and membership information are confidential, except for the name and years of service of a fund member. Notwithstanding the fund may in its sole discretion provide member record or membership information to **members of the Indiana general assembly or their agents, or to:**

- (1) state agencies;
- (2) independent bodies corporate and politic; and
- (3) service providers who contract with the fund;

so long as such service providers, state agencies, and independent bodies corporate and politic are contractually bound by a confidentiality agreement approved by the fund and where in the fund's sole discretion the fund determines there is a necessity to provide such records to carry out the administrative functions of the fund. (Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 2-9-6.4](#); adopted Nov 19, 2008: [20081126-IR-550080887ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))

SECTION 31. [550 IAC 3-3](#) IS ADDED TO READ AS FOLLOWS:

Rule 3. Restatement of [550 IAC 3-1-1](#) and [550 IAC 3-2-1](#)

[550 IAC 3-3-1](#) Compliance with Code Section 401(a)(31) for eligible rollover distributions

Authority: [IC 5-10.2-2-14](#)

Affected: [IC 5-10.4-4-12](#)

Sec. 1. (a) For purposes of [IC 5-10.4-4-12](#) and compliance with Section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) For purposes of this section, "direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(c) For purposes of this section, "distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse. Effective January 1, 2009, a distributee further includes a nonspouse beneficiary who is a

designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity (or, effective January 1, 2008, a Roth IRA) established for the purpose of receiving the distribution, and the account or annuity must be treated as an inherited individual retirement account or annuity.

(d) For purposes of this section, "eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

- (1) an individual retirement account described in Section 408(a) of the Internal Revenue Code;
- (2) an individual retirement annuity described in Section 408(b) of the Internal Revenue Code;
- (3) an annuity plan described in Section 403(a) of the Internal Revenue Code;
- (4) a qualified trust described in Section 401(a) of the Internal Revenue Code;
- (5) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code;
- (6) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system; or
- (7) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code.

(e) For purposes of this section, "eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include the following:

- (1) any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more;
- (2) any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code;
- (3) the portion of any distribution that is not includible in gross income; and
- (4) any other distribution that is reasonably expected to total less than two hundred dollars (\$200) during the year.
- (5) Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only:
 - (A) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code;
 - (B) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or
 - (C) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code.

Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse or to a spouse. (*Board of Trustees of the Indiana State Teachers' Retirement Fund*; [550 IAC 3-3-1](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))

SECTION 32. [550 IAC 4.5](#) IS ADDED TO READ AS FOLLOWS:

ARTICLE 4.5. CONTRIBUTIONS AND BENEFITS

Rule 1. Adoption of Internal Revenue Code Section 415

[550 IAC 4.5-1-1](#) Compliance with Internal Revenue Code Section 415 for Limitations on Contributions and Benefits

Authority: [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-2-1.5](#); [IC 5-10.4](#)

Sec. 1. (a) Notwithstanding any other provisions to the contrary, pursuant to [IC 5-10.2-2-1.5\(7\)](#), the

member contributions paid to and retirement benefits paid from the plan shall be limited to such extent as may be necessary to conform to the requirements of Section 415 of the Internal Revenue Code for a qualified governmental pension plan. For purposes of these limitations, the limitation year shall be the fiscal year.

(b) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in Section 414(j) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan.

(c) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in Section 414(i) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.

(d) Before July 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in Section 415(b) of the Internal Revenue Code, subject to the applicable adjustments in that section. On and after July 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable adjustments in Section 415(b) of the Internal Revenue Code and subject to any additional limits that may be specified in the retirement system. In no event shall a member's benefit payable under the plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Internal Revenue Code and the regulations thereunder.

(e) For purposes of Section 415(b) of the Internal Revenue Code, the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Section 415(n) of the Internal Revenue Code) and to rollover contributions (as defined in Section 415(b)(2)(A) of the Internal Revenue Code). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(f) If the benefit under the plan is other than the form specified in subsection (e), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

(1) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefit as follows:

(2) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code does not apply (a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced limit applicable at the annuity starting date which is the lesser of when adjusted in accordance with the following assumptions):

(A) the annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member; or

(B) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a five percent (5%) interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent revenue ruling modifying the applicable provisions of Revenue Rulings 2001-62); or

(3) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code applies (a lump-sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting date which is the least of when adjusted in accordance with the following assumptions):

(A) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(B) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a five-point-five percent (5.5%) interest assumption (or the applicable statutory interest assumption)

and the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent revenue ruling modifying the applicable provisions of Revenue Ruling 2001-62); or
(C) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) (the thirty (30) year treasury rate (prior to July 1, 2007, using the rate in effect for the month prior to retirement, and on and after July 1, 2007, using the rate in effect for the first day of the plan year with a one (1) year stabilization period)) and the applicable mortality rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent revenue ruling modifying the applicable provisions of Revenue Ruling 2001-62), divided by one and five-hundredths (1.05).

(g) For purposes of this section, the following benefits shall not be taken into account in applying these limits:

- (1) Any ancillary benefit which is not directly related to retirement income benefits.
- (2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity.
- (3) Any other benefit not required under Section 415(b)(2) of the Internal Revenue Code and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Section 415(b)(1) of the Internal Revenue Code.

(h) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with treasury regulations pursuant to the provisions of Section 415(b) of the Internal Revenue Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age sixty-two (62).

- (1) In the event the member's benefit is based on at least fifteen (15) years of military service, the adjustments provided for in subsection (a) shall not apply.
- (2) The reductions provided for in subsection (a) shall not be applicable to preretirement disability benefits or preretirement death benefits.

(i) The maximum retirement benefits payable to any member who has completed less than ten (10) years of service shall be the amount determined under subsection (3) *[sic]* multiplied by a fraction, the numerator of which is the number of the member's years of service and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below ten percent (10%). The reduction provided for in this subsection shall not be applicable to preretirement disability benefits or preretirement death benefits.

(j) Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under this plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the employer has not any time maintained a qualified defined contribution plan in which the member participated.

(k) Effective on and after July 1, 2009, for purposes of applying the limits under Section 415(b) of the Internal Revenue Code (the "Limit") to a member with no lump-sum benefit, the following will apply:

- (1) a member's applicable Limit will be applied to the member's annual benefit in the member's first limitation year without regard to any cost of living adjustments under [IC 5-10.4](#);
- (2) to the extent that the member's annual benefit equals or exceeds the Limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the Limit; and
- (3) thereafter, in any subsequent limitation year, a member's annual benefit, including any cost of living increases under [IC 5-10.4](#), shall be tested under the then applicable benefit Limit including any adjustment to the Section 415(b)(1)(A) of the Internal Revenue Code dollar limit under Section 415(d) of the Internal Revenue Code, and the regulations thereunder.

(l) On and after July 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury

Regulations.

(m) After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of forty thousand dollars (\$40,000) (as adjusted pursuant to Section 415(d) of the Internal Revenue Code) or one hundred percent (100%) of the member's compensation.

(1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked up employee contributions that are paid to a defined benefit plan.

(2) For purposes of applying Section 415(c) of the Internal Revenue Code and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under Section 414(h) of the Internal Revenue Code shall not be treated as compensation.

(3) Compensation will be defined as wages within the meaning of Section 3401(a) of the Internal Revenue Code and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Sections 6041(d), 6051(a)(3) and 6052 of the Internal Revenue Code and will be determined without regard to any rules under Section 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2) of the Internal Revenue Code).

(A) However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of Section 132(f)(4) of the Internal Revenue Code.

(B) For limitation years beginning on and after July 1, 2009, compensation for the limitation year shall also include compensation paid by the later of two and one-half (2 1/2) months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:

(i) the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

(ii) the payment is for unused accrued bona fide sick, vacation, or other leave that the member would have been able to use if employment had continued. However, compensation under subsection (m)(3)(B) *[this clause]* which is received from the employer in contemplation of the member's retirement, including severance pay, termination pay, retirement bonus, or commutation of unused sick leave or personal leave, shall be limited to no more than two thousand dollars (\$2,000).

(C) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(4) For limitation years beginning on or after July 1, 2009, a member's compensation for purposes of subsection (m) *[this subsection]* shall not exceed the annual limit under Section 401(a)(17) of the Internal Revenue Code.

(n) Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system shall not be taken into account for purposes of Section 415 of the Internal Revenue Code, in accordance with applicable treasury regulations.

(o) Reduction of benefits and/or contributions to a II plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan

and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

(p) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one (1) or more contributions to purchase permissive service credit under the plan, then the requirements of Section 415(n) of the Internal Revenue Code will be treated as met only if:

- (1) the requirements of Section 415(b) of the Internal Revenue Code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Section 415(b) of the Internal Revenue Code; or
- (2) the requirements of Section 415(c) of the Internal Revenue Code are met, determined by treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code.
- (3) For purposes of applying this section, the system will not fail to meet the reduced limit under Section 415(b)(2)(C) of the Internal Revenue Code solely by reason of this subdivision and will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code solely by reason of this section.
- (4) For purposes of this section, the term "permissive service credit" means service credit:
 - (A) recognized by the system for purposes of calculating a member's benefit under the system;
 - (B) which such member has not received under the system; and
 - (C) which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.
- (D) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.
- (5) The system will fail to meet the requirements of this section if:
 - (A) more than five (5) years of nonqualified service credit are taken into account for purposes of this clause; or
 - (B) any nonqualified service credit is taken into account under this section before the member has at least five (5) years of participation under the system.
- (6) For purposes of subdivision (5), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to:
 - (A) service (including parental, medical, sabbatical, and similar leave) as an employee of the government of the United States, any state or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in Section 415(k)(3) of the Internal Revenue Code);
 - (B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;
 - (C) service as an employee of an association of employees who are described in clause (A); or
 - (D) military service (other than qualified military service under Section 414(u) of the Internal Revenue Code) recognized by the system.
- (E) In the case of service described in clause (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one (1) plan.
- (7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Section 403(b)(13)(A) of the Internal Revenue Code or Section 457(e)(17)(A) of the Internal Revenue Code applies (without regard to whether the transfer is made between plans maintained by the same employer):
 - (A) the limitations of subdivision (5) will not apply in determining whether the transfer is for the purchase of permissive service credit; and
 - (B) the distribution rules applicable under federal law to the system will apply to such amounts and any benefits attributable to such amounts.
- (8) For an eligible member, the limitation of Section 415(c)(1) of the Internal Revenue Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount

less than the amount which was allowed to be purchased under the terms of a plan as in effect on August 5, 1997. For purposes of this subdivision, an eligible member is an individual who first became a member in the system before July 1, 1999.

(Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 4.5-1-1](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))

SECTION 33. [550 IAC 5-1-4](#) IS AMENDED TO READ AS FOLLOWS:

[550 IAC 5-1-4](#) Text

Authority: [IC 5-10.2-2-1](#); [IC 5-10.4-3-6](#)

Affected: [IC 5-10.2-2-1.5](#); [IC 5-10.4](#)

Sec. 4. The annual compensation limitations of Section 401(a)(17) of the Code shall be applied as follows:

(1) The annual compensation limit under Section 401(a)(17) of the Code, as amended by OBRA '93 and EGTRRA, shall not apply to any eligible participant, in any future year, to the extent that the application of the annual compensation limit in Section 401(a)(17) of the Code, as amended by OBRA '93 and EGTRRA, would reduce the amount of annual compensation that is allowed to be taken into account under the fund below the amount that was allowed to be taken into account under the fund as in effect on July 1, 1993. As used in this subdivision, "eligible participants" includes all members who participated in the fund prior to July 1, 1996.

(2) The annual compensation limit under Section 401(a)(17) of the Code, as amended by OBRA '93, will be effective with respect to noneligible participants as of July 1, 1996. As used in this subdivision, "noneligible participants" includes all members who did not participate in a fund prior to July 1, 1996. Effective for years beginning after December 31, 2001, the annual compensation limit under Code Section 401(a)(17), as amended by EGTRRA, will be effective with respect to noneligible participants. **The annual compensation limit will be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. Annual compensation means compensation during the plan year or such other consecutive twelve (12) month period over which compensation is otherwise determined under the plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than twelve (12) months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is twelve (12). If the compensation for any prior determination period is taken into account in determining a plan member's contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.**

(Board of Trustees of the Indiana State Teachers' Retirement Fund; [550 IAC 5-1-4](#); filed Jul 15, 2003, 4:30 p.m.: 26 IR 3880; readopted Jul 8, 2009: [20090715-IR-550090499ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#))

SECTION 34. THE FOLLOWING ARE REPEALED: [550 IAC 2-2-5](#); [550 IAC 2-5-3](#); [550 IAC 3-1-1](#); [550 IAC 3-1-2](#); [550 IAC 3-1-3](#); [550 IAC 3-2-1](#); [550 IAC 3-2-2](#).

DATED: December 16, 2009

Signed: Ryan Kitchell

President of the Board of Trustees

Resolution adopted by 6 affirmative and 0 negative votes.

Posted: 01/06/2010 by Legislative Services Agency

An [html](#) version of this document.